1   UNITED STATES DISTRICT COURT
            NORTHERN DISTRICT OF CALIFORNIA
2   SAN FRANCISCO DIVISION

   _____
3   BRAYDEN STARK and JUDD OOSTYEN,)
   on behalf of themselves and all)
4   others similarly situated,   )
   Plaintiffs,   )
5   v.   )No.3:22-cv-03131
)   -JCS
6   PATREON, INC.,   )
   Defendant.   )
7   _____
8   CONFIDENTIAL ATTORNEYS EYES' ONLY
          30(B)(6) DEPOSITION OF DEFENDANT,
9   PATREON, INC.,
           DEPOSITION OF JASON BYTTOW
10   _____
11   8:00 a.m.
                 August 1, 2023
12   Brooklyn, New York
13
14
15   CORRECTED TRANSCIRPT
16
17
18
19
20   File #6023169
21
22
23
24
25   Reported by: Judy Robinson, CCR No. 2171

                                      Page 1

1	Q. Okay. So, yeah, and this is -- well,	09:54
2	we're going to look at different documents	09:54
3	today, and some of them have different forms of	09:54
4	numbering. So I'll just try to be clear. But	09:54
5	for this one I'm on Page 5 of the document.	09:54
6	Now do you see where I was talking	09:54
7	about, Areas of Inquiry?	09:54
8	A. I do, yes. Sorry for that.	09:54
9	Q. No, no problem.	09:54
10	So it begins with 2A, and it's not	09:54
11	completely sequential, but there is several	09:54
12	categories here through 9; do you see those?	09:54
13	A. Yes.	09:55
14	Q. Have you seen those categories before?	09:55
15	A. So yes. These -- these I have seen now	09:55
16	that I'm kind of looking at this in more detail.	09:55
17	Q. Okay.	09:55
18	And do you understand that Patreon	09:55
19	designated you to testify on its behalf about --	09:55
20	A. Yes.	09:55
21	Q. -- these different categories?	09:55
22	A. Uh-huh, yep.	09:55
23	Q. We'll go into each in -- in more	09:55
24	detail, but what did you do broadly to prepare	09:55
25	for today's deposition?	09:55

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```
 1          A.  I reviewed our code, entire code       09:55

 2     history as it pertains to how we've integrated   09:55

 3     with Facebook and the commits thereof that       09:55

 4     introduced or modified those integrations.

 5               REPORTER:  Hold on.  Clarification.

 6     The commits thereof?  C-O-M-M-I-T-S?

 7               WITNESS:  C-o-m-m-i-t-s.

 8               REPORTER:  The commits.  Okay.  Excuse

 9     me.  Thank you.

10     BY MR. GRILLE:                                   09:56

11          Q.  Is "commits" a term that software       09:56

12     engineers sometimes use?                         09:56

13          A.  Yes.                                     09:56

14          Q.  What does it mean?                       09:56

15          A.  In the general sense of, as you said,   09:56

16     kind of general engineers in the industry.       09:56

17     It's -- it is, essentially, a -- a revision, a   09:56

18     request to revise the code base, and that code   09:56

19     then goes into a peer review and gets accepted   09:56

20     and then merged in with the production kind of   09:56

21     master code, if you will, the code base.  That   09:56

22     is, like, the definition of a commit, at least   09:56

23     just the way I use it, and broadly speaking.     09:57

24          Q.  Got it.  Got it.                         09:57

25               At Patreon, is that process all        09:57
```

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1   performed by Patreon employees?   09:57

2   A. I wouldn't say all employees. It's --   09:57

3   it's -- it's people who have access to make code   09:57

4   changes. Though broadly speaking, that's the   09:57

5   majority of engineers, but it may not include,   09:57

6   you know, the CEO, for example. I mean, maybe,   09:57

7   maybe not.   09:57

8   Q. So how did you review the code history   09:57

9   as it pertains to Patreon's integration with   09:57

10   Facebook?   09:57

11   A. So I reviewed, essentially, the kind of 09:58

12   core code in which that Pixel has been hard   09:58

13   coded on to the website, and then I did   09:58

14   essentially kind of a look-back analysis of any   09:58

15   lines that have changed or been introduced for   09:58

16   that -- for that hard-coded code as well as any 09:58

17   sort of modifications.   09:58

18   So I can look at that in a historical   09:58

19   lens on a particular set of lines. I can also 09:58

20   wrap or search the code base for any similar   09:58

21   terms to see if anything was introduced at any   09:58

22   other point within the code base. And so I   09:58

23   looked at that through a historical lens through 09:58

24   the time period in which that is under inquiry. 09:58

25   Q. So is it correct that you are able to   09:58

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 1       look at the software code as it exists today and    09:58

 2       also historically how it was going some time        09:58

 3       back?                                               09:59

 4            A.  Yes.                                       09:59

 5            Q.  What's the -- what would be the time       09:59

 6       period?  Like, how far back did you look?           09:59

 7            A.  It would be until -- it would be until     09:59

 8       we started using GitHub, is our primary source      09:59

 9       control for commits, which goes back quite a bit    09:59

10       beyond this date.  But for the purposes of when     09:59

11       the Pixel's introduced, I can kind -- I can see     09:59

12       exactly what the origin was for that even though    09:59

13       the code base kind of, you know, extends prior      09:59

14       to that.  So I have enough of a lens to see you     09:59

15       know, what the origins were.                        09:59

16            Q.  And when was Pixel introduced at           09:59

17       Patreon?                                            09:59

18            MR. WALKER:  Object to the form.               10:00

19            WITNESS:  It was --                            10:00

20            REPORTER:  Okay.                               10:00

21            MR. WALKER:  Mr. Byttow, if you could          10:00

22       just pause just a moment after he completes his     10:00

23       questions so that I have an opportunity to          10:00

24       impose an objection and none of us will talk        10:00

25       over one another.  That would be wonderful.         10:00
```

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 1          six -- three to -- three to five months, maybe.    10:17

 2          Six months on or off.  Not -- you know, yeah,      10:17

 3          it's really hard for me to accumulate a total      10:17

 4          and how long of a period of time right now.  I     10:17

 5          can think about it if you like.                    10:17

 6              Q.  No, that's okay.  That's -- that's         10:17

 7          helpful.                                           10:17

 8                  Are there any other Patreon employees      10:17

 9          that you met with to prepare for today that we     10:17

10          haven't discussed?                                 10:17

11              A.  No.                                        10:17

12              Q.  Are there any other documents that you     10:17

13          reviewed to prepare for today that we haven't      10:17

14          discussed?                                         10:17

15              A.  No.                                        10:17

16              Q.  When I say "documents," I would include    10:17

17          electronic materials and stuff you reviewed on     10:17

18          your computer, or anything like that.              10:18

19                  Is there anything else that you did to     10:18

20          prepare?                                           10:18

21              MR. WALKER:  Objection, form.                  10:18

22              REPORTER:  Hold on.  Did you have an

23          objection?

24              MR. WALKER:  Objection, form.

25              REPORTER:  Okay.  Mr. Walker, can you
```

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```
 1        speak up with your objections.  I couldn't hear

 2        you.

 3                MR. WALKER:  Will do so.

 4                REPORTER:  Thank you.

 5                WITNESS:  Would -- can you repeat the        10:18

 6        question?  BY MR. GRILLE:                            10:18

 7           Q.  Sure.  Let me try to maybe phrase it a        10:18

 8        little bit better.                                   10:18

 9                When I say documents that you reviewed       10:18

10        to prepare for today, I mean more than just like    10:18

11        paper documents.  I also mean anything              10:18

12        electronic that you reviewed on a computer, a       10:18

13        tablet, or a phone.                                 10:18

14                So is there anything else that you've       10:18

15        reviewed to prepare for today that we haven't       10:18

16        discussed?                                          10:18

17                MR. WALKER:  Objection, form.               10:18

18                WITNESS:  No.                               10:18

19                Sorry, I will pause.                        10:19

20                No, not that I can recall.                  10:19

21        BY MR. GRILLE:                                      10:19

22           Q.  What is your highest level of                10:19

23        education?                                          10:19

24           A.  You'd like to know my highest level of       10:19

25        education?                                          10:19
```

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1	Q. Yes.	10:19
2	A. Does that include certifications?	10:19
3	Degree? What -- what do you define as highest	10:19
4	form of education?	10:19
5	Q. Yes. I'd like to know --	10:19
6	A. Books I've read?	10:19
7	Q. I don't know if we'll have to go that	10:19
8	far. We'll see. But for now, certifications or	10:19
9	degrees that you have would be helpful.	10:19
10	A. Um, so I'm mostly a self-taught	10:20
11	software engineer. I've done three years of	10:20
12	college as a software engineering degree, and	10:20
13	have about 17 years of experience. I don't	10:20
14	recall exactly what certificates I have. Quite	10:20
15	a few.	10:20
16	Q. What certificates do you remember?	10:20
17	A. I can't remember right now.	10:20
18	Q. Would they be software engineering,	10:20
19	certificates in -- within that field?	10:20
20	MR. WALKER: Objection, form.	10:20
21	WITNESS: Yes. Some software	10:20
22	engineering. Some network engineering. I've	10:20
23	got a certification in electrical engineering as	10:21
24	well.	10:21
25	BY MR. GRILLE:	10:21

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1	Q. Do you have a -- a LinkedIn profile?	10:21
2	A. I do.	10:21
3	Q. Does that contain an accurate	10:21
4	representation of your work history?	10:21
5	A. What representation are you thinking	10:21
6	about? Are you thinking about my historical	10:21
7	employment?	10:21
8	Q. Right.	10:22
9	MR. WALKER: Object to form.	10:22
10	WITNESS: Yes. It has, I believe,	10:22
11	roughly accurate timeline of my historical	10:22
12	employment, though I don't really update it	10:22
13	any -- much. So I haven't looked at it in quite	10:22
14	a while.	10:22
15	BY MR. GRILLE:	10:22
16	Q. Let me introduce what we found just	10:22
17	publicly as your LinkedIn profile. While I'm	10:22
18	doing that, I -- I don't mean to be invasive	10:22
19	with these questions. It's -- it helps us to	10:22
20	understand a little bit about your background,	10:22
21	so that's the purpose for it.	10:22
22	A. I mean, I -- I could tell you.	10:22
23	Q. I think that's helpful. Let me	10:23
24	introduce this to see if it can save some time,	10:23
25	and that should be available on your screen.	10:23

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```
 1              REPORTER:  Is this Number 15?

 2              MR. GRILLE:  Yes.

 3              REPORTER:  And what is it?

 4              MR. GRILLE:  LinkedIn profile.

 5              (Exhibit No. 15 was marked.)

 6              WITNESS:  I have this open.              10:23

 7         BY MR. GRILLE:                               10:23

 8              Q.  Does this look like an accurate     10:23

 9         representation of what's on your LinkedIn    10:23

10         profile?                                     10:23

11              MR. WALKER:  Objection, form.           10:23

12              WITNESS:  I mean, the dates I -- I need 10:23

13         to rethink or relook at them.  But more or less 10:23

14         what is on -- what is here is -- has a record of 10:23

15         my employment, yes.                          10:23

16         BY MR. GRILLE:                               10:23

17              Q.  Are these all places that you've worked 10:23

18         and -- and positions that you held there in the 10:24

19         experience section?                          10:24

20              MR. WALKER:  Objection, form.           10:24

21              WITNESS:  This, I think, looks pretty   10:24

22         accurate, the top skills, with probably a bit 10:24

23         light compared to what I actually know.  But 10:24

24         sure.                                        10:24

25         BY MR. GRILLE:                               10:24
```

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```
 1          Q.   What other skills would -- would you     10:24

 2     add to that list?                                  10:24

 3               MR. WALKER:   Objection, form.            10:24

 4               WITNESS:   I'm not sure it would be       10:24

 5     pertinent unless you would like me to list off      10:24

 6     all the languages and frameworks and libraries     10:24

 7     that I have.   It could be -- it could take some    10:24

 8     time.   Would you like me to list those?           10:24

 9     BY MR. GRILLE:                                      10:24

10          Q.   Yes.                                      10:24

11          A.   Would you like me to start with          10:24

12     languages?                                          10:25

13          Q.   I think if you could just remember --    10:25

14     if you could list the languages and top skills     10:25

15     that you remember while you're sitting here now.   10:25

16               MS. PURCELL:   Objection, form.           10:25

17               WITNESS:   It's great digression.   I    10:25

18     believe the first language that I had -- well,     10:25

19     if we talk about top skills I would put React      10:25

20     there.   I'd put Android and iOS development       10:25

21     publish I've done in my professional career;

22     C++, C Sharp, Origin.Net Studios.   So I --

23               REPORTER:   Hold on.

24               WITNESS:   -- I have an understanding

25     of --
```

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```
 1              REPORTER:  Hold on.  D++ (sic) and then
 2       please -- please start after D++.
 3              WITNESS:  I would probably put PHP and      10:26
 4       Perl up there as well.  And surprisingly           10:26
 5       JavaScript is not up there.  That's -- that one    10:26
 6       there, too.                                        10:26
 7              Probably covers most of the languages.      10:26
 8       We can talk about frameworks if you'd like.        10:26
 9       BY MR. GRILLE:                                     10:26
10          Q.  What are frameworks as you're using        10:26
11       that term?                                         10:26
12          A.  Frameworks are generally large             10:26
13       libraries, if you will.  Not to overload that     10:26
14       term, but that you would build something on top   10:26
15       of.                                                10:27
16              So, for example, Flask is a framework.     10:27
17       Django is listed as a skill -- as a framework.    10:27
18       These provide, essentially, the scaffolding to    10:27
19       build web applications.  On top of, in this       10:27
20       scenario, HTTP, HTTPS, et cetera.                 10:27
21              Another framework would be -- would you    10:27
22       like me to continue?                               10:27
23          Q.  Why don't you continue your response.      10:27
24       I'll let you finish.                               10:27
25          A.  Sure.                                       10:27
```

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1	Another framework again is Django, same	10:27
2	similar to Flask -- Node, another example of a	10:27
3	framework. They all provide similar things in	10:27
4	different languages while Django and Flack are	10:28
5	in Python noted in JavaScript. They both --	10:28
6	both those provide all service side frameworks	10:28
7	for, essentially, writing for -- or for building	10:28
8	a website or web application.	10:28
9	There are other terms for frameworks	10:28
10	that are not really typical to the web that I	10:28
11	have used. Would you like me to continue	10:28
12	listing skills that I have?	10:28
13	Q. Well, let me ask: Are there other	10:28
14	major skills that you think are relevant to your	10:28
15	testimony today that you haven't discussed?	10:28
16	A. I'm -- I -- I -- I'm not sure.	10:28
17	I -- are you asking if there are any	10:28
18	other skills that are relevant to this	10:28
19	testimony?	10:28
20	Q. Right.	10:28
21	MR. WALKER: For the record, I -- I	10:28
22	interposed an objection on the basis of form. I	10:28
23	will make the next one louder. But I interposed	10:29
24	an objection in response to the prior question.	10:29
25	WITNESS: So you're asking me do I have	10:29

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```
 1        any other skills that are pertinent to this          10:29

 2        discussion?                                          10:29

 3        BY MR. GRILLE:                                       10:29

 4            Q.  Yes.  Yes.                                   10:29

 5            So we talked about how you prepared for          10:29

 6        certain categories of testimony today.  Are          10:29

 7        there other skills in your background that are       10:29

 8        relevant as -- to the testimony that you             10:29

 9        anticipate providing today?                          10:29

10            MR. WALKER:  Objection, form.                    10:29

11            WITNESS:  Are there any other skills             10:29

12        relevant to providing this testimony?               10:29

13            Well, I think speaking to you,                   10:29

14        translating information.  That's pretty              10:29

15        relevant.  But I have a pretty good                  10:29

16        understanding of, broadly speaking, how              10:29

17        patreon.coms are written.  The language is used,

18        the frameworks used.

19            REPORTER:  Hold on.  Clarification.

20        What .coms?

21            WITNESS:  Patreon.com.

22            REPORTER:  Patreon, okay.  Excuse me.

23        Go ahead.

24            WITNESS:  I'm familiar with the

25        frameworks and skills -- or sorry, the               10:30
```

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1	powerpatreon.com. I'm familiar with the tools	10:30
2	that we use and the -- the languages in which	10:30
3	it's written and how it's -- the majority of how	10:30
4	it's written. So I have a pretty good	10:30
5	understanding of how it's built. So it's --	10:30
6	it's pretty relevant to transcribing what I have	10:30
7	-- what I know.	10:30
8	BY MR. GRILLE:	10:30
9	Q. How long have you been at Patreon?	10:30
10	A. I've been here over seven-and-a-half	10:31
11	years. I don't know the exact month anymore.	10:31
12	Q. Have you always held the same position	10:31
13	at Patreon?	10:31
14	A. I had to change positions.	10:31
15	Q. What positions have you held?	10:31
16	A. I joined as a mid-level engineer. Then	10:31
17	into a senior engineer. And then into an	10:31
18	engineering manager. And then a senior	10:31
19	engineering manager. And then a staff engineer.	10:31
20	Back into an IC role.	10:31
21	Q. What was the last one? IC role, what	10:32
22	does that stand for?	10:32
23	A. Individual contributor.	10:32
24	Q. Is that also a similar software	10:32
25	engineering role?	10:32

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1	A. Similar to what?	10:32
2	Q. Let me ask a different question.	10:32
3	Are each of those roles, would you	10:32
4	categorize them as software engineering?	10:32
5	A. They -- it all pertains to software	10:32
6	engineering, yes. Whether that's directly or	10:32
7	indirectly.	10:32
8	Q. What would be the difference between	10:32
9	directly and indirectly?	10:32
10	A. And when I say that, an IC would be	10:32
11	directly, generally directly writing code. When	10:32
12	I say "indirectly," for example, as a manager,	10:32
13	you may or may not be writing code, but you're	10:32
14	managing people that do.	10:33
15	Q. On your LinkedIn profile, there's a	10:33
16	section called "Credits" on the second page, do	10:33
17	you see that?	10:33
18	A. I do.	10:33
19	Q. What is that?	10:33
20	A. Those are video games.	10:33
21	Q. What does it mean to have a credit in	10:33
22	that context?	10:33
23	A. It means that I have accredited to have	10:33
24	worked on those games, just like in a movie	10:33
25	credit.	10:33

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1	Q. Did you work on those games in a	10:33
2	software engineering capacity?	10:34
3	A. I did.	10:34
4	Q. Because I'll reference at some point	10:34
5	topics that we're talking about, and I'd like to	10:34
6	talk about 2A. This is Page 5 on the document.	10:34
7	Do you see where it says the number of	10:34
8	Patreon account holders? "This Patreon account	10:34
9	was used to watch at least one video on the	10:34
10	Patreon website."	10:35
11	A. Uh-huh. Yep, I do.	10:35
12	Q. Is this -- to prepare for this	10:35
13	category, you had a discussion with Mr. Brini;	10:35
14	is that correct?	10:35
15	A. That's correct, yes.	10:35
16	Q. We already talked about that and he --	10:35
17	he provided that spreadsheet for you; is that	10:35
18	right?	10:35
19	A. Yes.	10:35
20	Q. All right.	10:35
21	So I think what we should do here is	10:35
22	take a quick break so I can get that spreadsheet	10:35
23	and then we can talk about it a little bit more.	10:35
24	VIDEOGRAPHER: Counsel, do you agree to	10:35
25	go off the record?	10:35

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1	MR. WALKER: I do.	10:35
2	VIDEOGRAPHER: Going off the record.	10:35
3	The time is 1:35 p.m.	10:35
4	(Off the record.)	10:50
5	VIDEOGRAPHER: Back on the record. The	10:50
6	time is 1:50 p.m.	10:50
7	BY MR. GRILLE:	10:50
8	Q. All right. We're back on the record.	10:50
9	Did you speak with anybody other than	10:50
10	your attorneys during the break?	10:50
11	A. No.	10:50
12	Q. And I now have what I've just	10:50
13	introduced as Exhibit 16. Can you take a look	10:50
14	at that?	10:50
15	(Exhibit No. 16 was marked.)	10:50
16	WITNESS: Yeah.	10:51
17	BY MR. GRILLE:	10:51
18	Q. Is that the spreadsheet that you	10:51
19	referenced earlier that you were reviewing?	10:51
20	A. Yes.	10:51
21	Q. And this is data that came from	10:51
22	Mr. Brini?	10:51
23	A. Correct.	10:51
24	Q. And we talked about it earlier, but can	10:51
25	you walk me through what this spreadsheet shows?	10:51

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1   REPORTER: That you were what?

2   Piloting?

3   WITNESS: Piloting, like testing with.

4   REPORTER: Thank you.

5   BY MR. GRILLE: 11:47

6   Q. And then when Patreon fully switched to   11:47

7   allowing native video uploads is, you said,   11:47

8   public information?   11:47

9   A. Yeah.   11:47

10   We made an announcement to the public 11:47

11   in -- you know, in the end of the Q4 of 2022, 11:47

12   maybe October, November, something like that. 11:47

13   Q. For uploaded native video, users can   11:48

14   watch those videos directly on Patreon's   11:48

15   website; is that correct?   11:48

16   A. Yes.   11:48

17   Q. Can Patreon's subscribers search for   11:48

18   particular video content that may interest them? 11:49

19   A. No.   11:49

20   Our search is very primitive. We have 11:49

21   a creator search that just searches by creator 11:49

22   name. That's our primary search.   11:49

23   The creator page you can search by, I   11:49

24   believe, the body of the content of the post for 11:49

25   any texts, and it will try to route -- you know, 11:49

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1	filter down those given post on that creator.	11:49
2	If -- if you are -- actually, I'm not	11:49
3	sure if nonsubscribers can do that search today.	11:49
4	I -- I think it's a subscriber-only search	11:49
5	for -- for their post types, yeah. For the	11:49
6	posts of a creator.	11:50
7	You might be able to filter by media	11:50
8	type, but that's unreliable as well. I think	11:50
9	you can. I think you can filter maybe by audio	11:50
10	or video, but, like, link posts might not be	11:50
11	reliable as to having audio or not having video.	11:50
12	Q. For filtering by media type, would that	11:50
13	be site-wide?	11:50
14	MR. WALKER: Form.	11:50
15	WITNESS: Filtering by media type is	11:50
16	creator-specific.	11:50
17	BY MR. GRILLE:	11:50
18	Q. Are posts indexed or categorized by	11:50
19	media type?	11:51
20	MR. WALKER: Object to form.	11:51
21	WITNESS: So when you say "indexed,"	11:51
22	can you -- can you tell me more about what you	11:51
23	mean there?	11:51
24	BY MR. GRILLE:	11:51
25	Q. I -- I think you might have already	11:51

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1	answered the question.	11:51
2	If you can filter by media type, that	11:51
3	means that there's some functionality in the	11:51
4	website that designates a post based on the type	11:51
5	of media; is that right?	11:51
6	MR. WALKER: Objection, form.	11:51
7	WITNESS: Yes. There is a media	11:51
8	filter, yes.	11:51
9	BY MR. GRILLE:	11:51
10	Q. I want to turn to the next topic of	11:52
11	where you've been designated. This is back on	11:52
12	Exhibit 14, No. 2E.	11:52
13	A. Uh-huh.	11:52
14	Q. Do you see -- yeah.	11:52
15	Do you see where it says, "The manner	11:52
16	in which the terms and policies are presented	11:52
17	and reviewed --	11:52
18	A. Yes.	11:52
19	Q. -- "by subscribers"?	11:52
20	A. Yep.	11:52
21	Q. How did you prepare for that topic?	11:52
22	A. I reviewed our terms and policies.	11:53
23	Q. Has the -- Patreon has -- Patreon has	11:53
24	Terms of Use and a Privacy Policy; is that	11:53
25	correct?	11:53

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1	A. Yes.	11:53
2	Q. How are the Terms of Use presented to	11:53
3	its subscribers?	11:53
4	A. So from my understanding, the product,	11:53
5	which is -- I'm not, you know, I can talk about	11:53
6	the mechanics, which is when a user comes to	11:53
7	patreon.com and wants to make an account, they	11:53
8	must agree to our terms and follow the Privacy	11:54
9	Policy, which is stated on our authentication	11:54
10	page.	11:54
11	Q. Is there a checkbox that a user has to	11:54
12	click before he or she can subscribe indicating	11:54
13	that that person agreed to the terms?	11:54
14	A. It's an explicit --	11:54
15	MR. WALKER: Object to form.	11:54
16	WITNESS: It's an explicit button.	11:54
17	When you hit "Sign Up," there is text that says	11:54
18	you agree. So that button is kind of our -- is	11:54
19	the checkbox.	11:54
20	But I think you're asking if there's an	11:54
21	explicit checkbox, like a form button, like a	11:54
22	check mark, is that what you're asking?	11:54
23	BY MR. GRILLE:	11:55
24	Q. That is what I'm asking.	11:55
25	A. There is no checkbox, no.	11:55

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```
 1            Q.  So if I understand correctly, when you     11:55

 2      sign up, you load the sign-up button, there's        11:55

 3      language that says something to the effect of by      11:55

 4      signing up, you agree to the terms; is that           11:55

 5      correct?                                              11:55

 6              MR. WALKER:  Object to form.                  11:55

 7              WITNESS:  I don't remember the exact          11:55

 8      line, but there is, off the top of my head, but       11:55

 9      yes, you are a big nature, which is that you are       11:55

10      agreeing to our Privacy Policy and terms.             11:55

11      BY MR. GRILLE:                                        11:55

12            Q.  Is it true that that language               11:55

13      references both the terms and Privacy Policy?         11:56

14            A.  My understanding, yes.                      11:56

15            Q.  What's the basis of that understanding?     11:56

16            A.  After reviewing the language, to me         11:56

17      it's clear that you are agreeing to both in the       11:56

18      way that it's written.                                11:56

19            Q.  Am I correct, though, that users don't      11:56

20      have to check a box before they can proceed that      11:56

21      says expressly I agree to these terms?                11:56

22              MR. WALKER:  Objection, form.                 11:56

23              WITNESS:  The way that the language           11:56

24      says -- that states it is something to the            11:56

25      effect of by accepting -- by hitting Sign Up,         11:56
```

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```
 1        you are accepting the terms and Privacy Policy.      11:56

 2        So you are -- when you click that button you are      11:57

 3        agreeing.                                             11:57

 4               So I'm not sure if that answers your           11:57

 5        question directly.                                    11:57

 6        BY MR. GRILLE:                                        11:57

 7           Q.   That answers my question, and maybe to        11:57

 8        put a finer point, I think you've answered it.        11:57

 9               But the language indicates that by             11:57

10        clicking Sign Up, you agree to the terms, but        11:57

11        there isn't a separate box that somebody checks      11:57

12        that they have to check or take some action          11:57

13        before they can proceed.  To clicking Sign Up,       11:57

14        it says I agree to the terms; is that right?         11:57

15           A.   To my -- so my -- my understanding is        11:57

16        when you click the box, the sign-up button, you      11:57

17        are agreeing.  The button that says "Sign Up,        11:57

18        says "by clicking this, you are agreeing."           11:58

19               So there is no separate isolated              11:58

20        checkbox that you click that says by clicking        11:58

21        this checkbox, you agree.  It says "by clicking      11:58

22        the sign-up button, you agree."                      11:58

23           Q.   Has that always been the presentation        11:58

24        of the terms between 2016 and the present?           11:58

25           A.   Yes, to my --                                11:58
```

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1	MR. WALKER: Objection, form.	11:58
2	WITNESS: Yes, to my understanding.	11:58
3	BY MR. GRILLE:	11:59
4	Q. Does Patreon keep -- no, strike that.	11:59
5	A. After your next question, is it okay if	11:59
6	I use the bathroom for about five minutes?	11:59
7	MR. GRILLE: Yeah, why don't we -- I'm	11:59
8	about to switch gears to a difference topic. So	11:59
9	why don't we just go off the record now.	11:59
10	VIDEOGRAPHER: Going off the record.	11:59
11	The time is 2:59 p.m.	11:59
12	(Off the record.)	12:11
13	VIDEOGRAPHER: Back on the record. The	12:11
14	time is 3:11 p.m.	12:11
15	BY MR. GRILLE:	12:11
16	Q. Great.	12:11
17	Did you speak with anybody other than	12:11
18	your attorneys during the break?	12:11
19	A. No.	12:12
20	Q. I'm going to turn to Topic 3 on	12:12
21	Exhibit 14, which has several subparts, but	12:12
22	relates to Patreon's placement of Meta Pixel and	12:12
23	time period, what pages it was there.	12:12
24	Are you prepared to discuss that topic?	12:12
25	A. Yes, I am.	12:12

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1	Q. And you said earlier that the first	12:12
2	instance when the Facebook Pixel was installed	12:12
3	on Patreon's website was April 2016; is that	12:12
4	right?	12:12
5	A. Yeah.	12:12
6	April, I'm almost certain that's the	12:12
7	date. I don't know the exact day, but April	12:12
8	sounds -- April or May, 2016, something like	12:12
9	that.	12:12
10	Q. Do you know who at the company made the	12:12
11	decision to install a Pixel?	12:13
12	A. I don't know who made the final	12:13
13	decision, no.	12:13
14	Q. Is there a person or a team who's	12:13
15	responsible for installing the Facebook Pixel	12:13
16	code?	12:13
17	A. It would be our engineering team.	12:13
18	Q. And you're part of that team, right?	12:13
19	A. I am.	12:13
20	Q. Is the engineering team also	12:13
21	responsible for maintaining the code, you know,	12:13
22	to the extent something goes wrong they would	12:14
23	address it, that kind of thing?	12:14
24	MR. WALKER: Object to form.	12:14
25	WITNESS: It is part of our job and our	12:14

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1	duty, yes, in our role.	12:14
2	BY MR. GRILLE:	12:14
3	Q. Do you have a contact at Meta who would	12:14
4	advise you related to Patreon's usage of the	12:14
5	Meta Pixel?	12:14
6	MR. WALKER: Object to form.	12:14
7	WITNESS: No.	12:14
8	BY MR. GRILLE:	12:14
9	Q. Have you worked with Meta at all in	12:14
10	relation to the -- to Patreon's Meta Pixel?	12:14
11	MR. WALKER: Object to form.	12:14
12	WITNESS: No.	12:14
13	BY MR. GRILLE:	12:14
14	Q. Has anybody on your team worked with	12:14
15	Meta at all in relation to Patreon's Meta Pixel?	12:14
16	MR. WALKER: Objection, form.	12:14
17	WITNESS: You're asking if any employee	12:15
18	has ever worked -- or directly with Meta in	12:15
19	terms of integrating the Meta Pixel; is that --	12:15
20	is that what the question was? Any employee?	12:15
21	BY MR. GRILLE:	12:15
22	Q. Yes.	12:15
23	A. No, not to my knowledge.	12:15
24	Q. Is it accurate to say that the Meta	12:15
25	Pixel, Facebook Pixel was integrated into the	12:15

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1   C E R T I F I C A T E

2

3   STATE OF WASHINGTON)

)SS.

4   COUNTY OF KING   )

5

6   I, Judith A. Robinson, Certified Court

7   Reporter and an officer of the Court under my

8   commission as a Notary Public, in and for the

9   State of Washington, do hereby certify that the

10   foregoing deposition was transcribed under my

11   direction; that the transcript of the deposition

12   is a full, true and correct transcript to the

13   best of my ability; that I am neither attorney

14   for, nor a relative or employee of any of the

15   parties to the action or any attorney or Counsel

16   employed by the parties hereto, nor financially

17   interested in its outcome.

18   IN WITNESS WHEREOF, I have hereunto set my

         hand and affixed my official seal this 11th day

19   of October, 2023.

20

21   *Judy Robinson*

22   Judith A. Robinson, Notary Public

                   in and for the State of

23   Washington residing at Seattle.

                   My Commission expires November 4, 2024.

24   CCR License #2171

25

                                          Page 229

ATTACHMENT 1

Citation	Current	Actual	Reason
Pg. 10, lines 20-22	" I don't quite exactly recall the introduction to this extent at this point, you know, a series of back and forth."	*"I don't quite exactly recall the introduction to this, it's been at this point a series of back and forth."*	Transcription error.
Pg. 12, line 16	"And you said you want me to focus on Page 5?"	*"This the first time I'm seeing this document. And you said you wanted me to focus on Page 5?"*	Transcription error.
Pg. 12, lines 23-25	"I just want to actually just kind of finish up the actual verbiage a little bit more."	*"I just want to actually just adjust to the actual verbiage a little more."*	Transcription error.
Pg. 13, line 14	**Q:** "No, I don't think so."	***Q:*** *"No, I don't think so. Let's just take it maybe one by one. Let me start. Dou see on page 5 there is a heading that says "Areas of Inquiry?"*	Transcription error.
Pg. 15, lines 15-16	"In the general sense of, as you said, kind of general engineers in the industry."	*"In the sense of, as you said, kind of engineers in the industry."*	Transcription error.
Pg. 19, line 12-13	"GetLens"	**GitLens*	Transcription error.
Pg. 23, line 11-12	"He provided a query of general understanding.."	*"He provided a general query to get a general understanding…"*	Transcription error.
Pg. 33, line 07	"... that I have."	*"...that I know."*	Transcription error.
Pg. 33, line 21	"publish.."	*"which I've done"*	Transcription error.
Pg. 34, line 03	"I would probably put PHP…"	***Insert:*** *"It was C++, C Sharp, C. I would probably put PHP…"*	Transcription error.
Pg. 35, line 4-5	"While Django and Flack are in Python noted in Javascript."	*"Well Django and Flack are in Python, Note is in Javascript."*	Transcription error.

ATTACHMENT 1

Pg. 36, line 17	"The language is used.."	*"The languages used.."*	Transcription error.
Pg 36 - 37, lines 25-1	"frameworks and skills – or sorry, the powerpatreon.com"	*"frameworks and skills – or sorry, the frameworks and languages essentially that power patreon.com"*	Transcription error.
Pg.37, line 14	"had to change"	*"have changed"*	Transcription error.
Pg. 38, line 23	" have accredited.."	*" am accredited.."*	Transcription error.
Pg. 39, line 04	**Q:**	***Insert: Q:*** *"I'd like to ask next, so if you turn to Exhibit 14 - it may help to just leave that open for the deposition…"*	Transcription error.
Pg. 43, line 03-04	" at in this number"	*" for in this number"*	Transcription error.
Pg. 45, line 15	**Q:** "And…"	***Q: "In.."***	Transcription error.
Pg. 48, line 10	"our subset.."	*"a subset.."*	Transcription error.
Pg. 50, lines 14-15	"posts don't typically have poll. But there could be some depiction of a watch"	***Insert after*** *"polls": "But there could be some numbers that could have added into it by accident. So we just need to remove some of those extraneous events to get a more accurate depiction of a watch."*	Transcription error.
Pg. 53, line 22	"Nick"	*"Nate"*	Transcription error.
Pg. 54, line 18	"not to define one unique"	*"-- to find one unique.."*	Transcription error.
Pg. 63, line 22	**Q:** "Within that video"	***Q:*** *"with embedded video"*	Transcription error.
Pg. 69, line 09	"You are a big nature.."	*"something to that nature"*	Transcription error.

ATTACHMENT 1

Pg. 75, line 22	"I have lined up with"	*"I had joined, I believe, in February"*	Transcription error.
Pg. 89, line 11	**Q:** "a carat"	***Q:*** *"a caret"*	Transcription error.
Pg. 90, line 11	"Yes, there's a line that said we received this as part of the heading, yes."	*Insert: "theres a line that said patreon/app/web/view/basepage/reactbasepage.html so this means that - to answer your question, pages served through the react base page would receive this as part of the head, yes."*	Transcription error.
Pg. 96, line 14	"this page header"	*"this page header code"*	Transcription error.
Pg. 96, line 18	"It needed"	*"In either.."*	Transcription error.
Pg. 101, line 21	"what this event is called"	*"when this event is called"*	Transcription error.
Pg. 119, line 22	"or unique user"	*"of a unique user"*	Transcription error.
Pg. 124, line 25	"DevX is what we called our developer."	*"DevX is what we called our developer tool, or this tool that we built for spitting up instances. It general stands for developer experience"*	Transcription error.
Pg. 126, line 22-23	"And so the only things that can happen in that vault are the production servers."	*"The only things that can access that vault are the production servers for example."*	Transcription error.
Pg. 127, line 21	**Q:** "unable"	***Q:*** *"able"*	Transcription error.
Pg. 133, line 25	"090 and 98089	*"098 or 089"*	Transcription error.
Pg. 134, line 10	"bar-coded ID"	*"hard-coded ID"*	Transcription error.
Pg. 134, line 18	"bar-coded pixel"	*"hard-coded ID"*	Transcription error.

ATTACHMENT 1

Pg. 140, line 11	"Yes."	*"That's right."*	Transcription error.
Pg. 141, line 05	**Q:** "We say"	*Q: "Where you say"*	Transcription error.
Pg. 150, line 25	"within a month"	*"within the month"*	Transcription error.
Pg. 179, line 14	**Q:** "RAIN and Facebook"	*Q: "RAIN Facebook"*	Transcription error.
Pg. 179, line 21-22	**Q:** "Firing and Trigger"	*Q: "Firing trigger"*	Transcription error.
Pg. 188, line 04	"Which are 26 starts with an "as of 98"	*"Which are 26 starts with, and ends with "98"*	Transcription error.
Pg. 189, line 24	**Q:** "https://protect-us.mimecast.com/s/QkB7CVO9OoFxG7Y9iGo8TD?domain=patreon.com"	*Q: "patreon.com/channel5/posts"*	Transcription error.
Pg. 190, line 22	"become low"	*"become null"*	Transcription error.
Pg. 191, line 10	**Q:** "Vuvalde"	*Q: "Uvalde"*	Transcription error.
Pg. 193, line 05	**Reporter:** "Vimeo"	***Insert before Reporter: "Vimeo"-*** *" I have heard of Vimeo, yes."*	Transcription error.
Pg. 193, line 07	"No"	***Remove line***	Transcription error.
Pg. 195, line 23-24	"I don't know"	*"know of no"*	Transcription error.
Pg. 202, lines 04 - 10	**Indicates Q is continuing.**	***Indicate that the witness began talking:*** *"Specifically you said…."*	Transcription error.
Pg. 205, line 08	**Q:** "Pix"	*Q: "Pixel"*	Transcription error.

ATTACHMENT 1

Pg. 207, line 08	"But do the math"	*"You could do the math"*	Transcription error.
Pg. 219, lines 15-16	"Pay day"	**"8A"**	Transcription error.

Full Page Edits:
- Page 189: Timestamps are on the left side, rather than the right.
- Page 191: Timestamps are on the left side, rather than the right.

```
 1       STATE OF WASHINGTON )

 2                           ) SS.

 3       COUNTY OF KING      )

 4

 5          I, the undersigned, declare under penalty of

 6       perjury that I have read the foregoing

 7       transcript, and I have made any corrections,

 8       additions, or deletions, that I was desirous of

 9       making; that the foregoing is a true and correct

10       transcript of my testimony contained therein.

11

12              EXECUTED this 03_____ day of

13       10_____ 2023 at Brooklyn_____,

14       NY_____.

15

16

17          _____

18

19                 JASON BYTTOW

20

21

22

23

24

25
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 1   BRAYDEN STARK and JUDD OOSTYEN vs. PATREON, INC.

 2   Jason Byttow (JOB NO. 6023169)

 3              E R R A T A   S H E E T

 4   PAGE_____ LINE_____ CHANGE_See attachment 1._____

 5   _____

 6   REASON_____

 7   PAGE_____ LINE_____ CHANGE_____

 8   _____

 9   REASON_____

10   PAGE_____ LINE_____ CHANGE_____

11   _____

12   REASON_____

13   PAGE_____ LINE_____ CHANGE_____

14   _____

15   REASON_____

16   PAGE_____ LINE_____ CHANGE_____

17   _____

18   REASON_____

19   PAGE_____ LINE_____ CHANGE_____

20   _____

21   REASON_____

22

23   _____     11 / 03 / 2023
                                         _____

24   WITNESS                             Date

25
                                         Page 232
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COMPLETED	**11 / 03 / 2023** 19:22:17 UTC	The document has been completed.